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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,610	03/30/2004	Darin G. Schaeffer	8627-190	5422
757 7590 07/19/2007 BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER MILLER, CHERYL L	
			ART UNIT 3738	PAPER NUMBER
			MAIL DATE 07/19/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/814,610	Applicant(s) SCHAEFFER, DARIN G.	
	Examiner Cheryl Miller	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 23-30 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-7, 9, 10 and 23-30 is/are rejected.  
 7) ☒ Claim(s) 8 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attachments 1-4</u> .                  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Oepen et al. (EP 0 958 794 A2, cited in IDS, see US 6,652,573 B2 for English equivalent). Von Oepen discloses a stent (10; fig.1) comprising a series of rings forming serpentine patterns and comprising a plurality of units, the units comprising first and second lateral arms and a central region between the arms, the central region having a peak between two valleys, each unit inverted with respect to the circumferentially adjacent unit, the lateral arms of each unit shared, a first portion of the rings (2 adjacent peaks of a ring considered the “first portion”, see attachment 1) being joined by a first plurality of connectors (“plurality of connectors” considered 2 adjacent connectors, highlighted in attachment 1) having an undulation, a second portion of the rings (all five peaks of one ring) joined by a second plurality of connectors (all five 14+15 connectors seen in fig.1) having an undulation (15), a third portion of the rings (2 adjacent peaks of one ring)

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joined by a third plurality of connectors (2 adjacent connectors) having an undulation, wherein the undulation of the second connector (15) is axially displaced from its circumferentially adjacent connector (15) and an undulation of the first and third connectors axially aligned with circumferentially adjacent connectors (see attachment 1, fig.1). Von Oepen discloses the second connectors (15; 5 of them in number) to be double in number to the first and third connectors (only 2 of each the first and third connectors are considered the “plurality of connectors”), therefore, there are double the amount of second connectors). Von Oepen discloses the units to comprise a W-shape (see attachment 1). Von Oepen discloses the undulation of the connectors to be a u shaped bend flanked with u bends (see fig.1).

Claims 23-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Levinson et al. (US 6,352,552 B1, cited previously). Levinson discloses a stent (20; fig.1) comprising a series of rings forming serpentine patterns and comprising a plurality of units, the units comprising first and second lateral arms and a central region between the arms, the central region having a peak between two valleys, each unit inverted with respect to the circumferentially adjacent unit, the lateral arms of each unit shared, a first portion of the rings (2 adjacent peaks of a ring considered the “first portion”, see attachment 2) being joined by a first plurality of connectors (“plurality of connectors” considered 2 adjacent connectors, highlighted in attachment 2) having an undulation (72), a second portion of the rings (all six peaks of one ring) joined by a second plurality of connectors (all six displaced connectors seen in fig.1) having an undulation, a third portion of the rings (2 adjacent peaks of one ring) joined by a third plurality of connectors (2 adjacent connectors 96, 98) having an undulation, wherein the undulation of the second connector is

axially displaced from its circumferentially adjacent connector and an undulation of the first and third connectors axially aligned with circumferentially adjacent connectors (see attachment 2, fig.1). Levinson discloses the second connectors (6 of them in number) to be double in number to the first and third connectors (only 2 of each the first and third connectors are considered the “plurality of connectors”, therefore, there are double the amount of second connectors). Levinson discloses the units to comprise a W-shape (see attachment 2). Levinson discloses the undulation of the connectors to be a u shaped bend flanked with u bends (see fig.1).

Claims 23-24, 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Penn et al. (US 6,796,997 B1, cited previously). Penn discloses a stent (10; fig.1) comprising a series of rings forming serpentine patterns and comprising a plurality of units, the units comprising first and second lateral arms and a central region between the arms, the central region having a peak between two valleys, each unit inverted with respect to the circumferentially adjacent unit, the lateral arms of each unit shared, a first portion of the rings (2 adjacent valleys of a ring considered the “first portion”, see attachment 3) being joined by a first plurality of connectors (“plurality of connectors” considered 2 adjacent connectors, highlighted in attachment 3) having an undulation, a second portion of the rings (all six peaks of one ring) joined by a second plurality of connectors (all thirteen displaced connectors seen in fig.1) having an undulation, a third portion of the rings (2 or more adjacent peaks of one ring) joined by a third plurality of connectors (2 or more adjacent connectors) having an undulation, wherein the undulation of the second connector is axially displaced from its circumferentially adjacent connector and an undulation of the first and third connectors axially aligned with circumferentially adjacent

connectors (see attachment 3, fig.1). Penn discloses the second connectors (13 of them in number) to be double in number to the first and third connectors (only 2-6 of each the first and third connectors are considered the “plurality of connectors”, therefore, there are double the amount of second connectors).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Oepen (EP 0 958 794 A2, see US 6,652,573 B2 for English equivalent). Von Oepen discloses a plurality of spaced apart rings having endless undulations and a plurality of connector segments joining adjacent ring, the connectors having an undulation. Von Oepen discloses the end connectors to be aligned with one another and the middle connectors (14+15) to be displaced from one another (see fig.1, attachment 4). Von Oepen discloses the same pattern of connectors as the applicant, however only has shown one set of connectors on each end and one set of middle connectors. It would have been obvious to one having ordinary skill in the art to have additional connectors/ring segments of the same pattern (2 on each end and 2 in the middle as claimed), since this is merely a duplication of the provided pattern that would be obvious to one that desired a longer stent to cover increased area in the vessel. Figure 2 of Von Open even shows an example of a different embodiment in fig.2, with use of additional ring and connector segments for a longer stent. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Oepen (EP 0 958 794 A2, cited previously) in view of Penn et al. (US 6,796,997 B1, cited previously). Von Oepen discloses a stent substantially as claimed (see above), however does not disclose a pharmaceutical composition thereon. Penn teaches in the same field of stents, the method of coating an entire stent or specific portion thereon, with a composition (anti-thrombosis, a medicinal composition, anticoagulant, or pharmaceutical, col.8, lines 26-37) in order to treat a portion of the body vessel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Penn's teaching of placing a pharmaceutical agent on a stent, with the stent of Von Oepen, in order to provide an implant that additionally treats the body.

*Allowable Subject Matter*

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

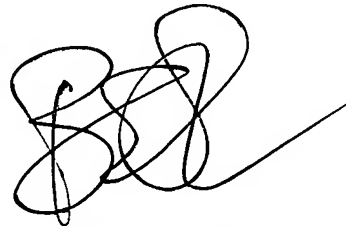
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Cheryl Miller



**BRUCE SNOW**  
**PRIMARY EXAMINER**



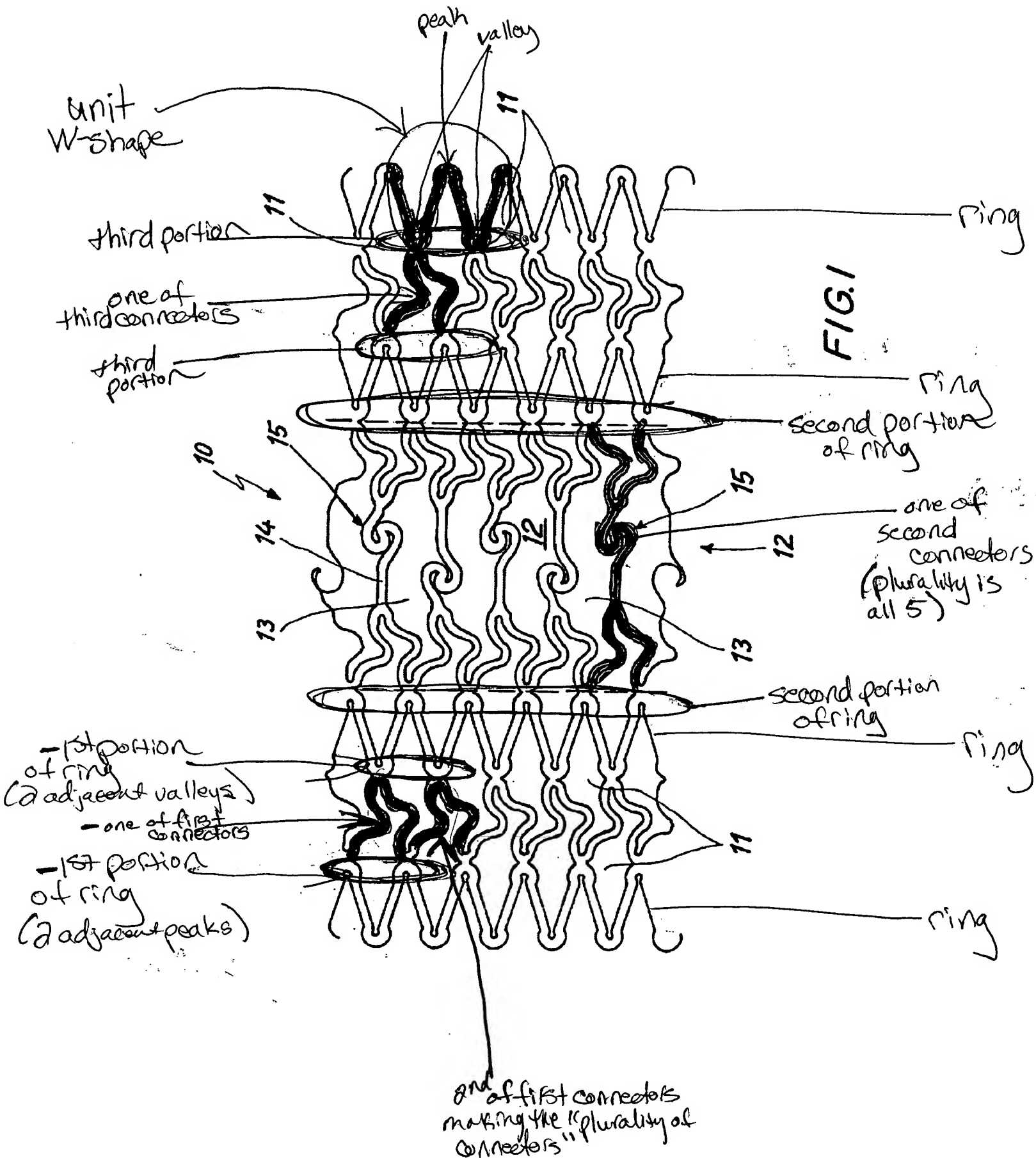
# Attachment # 1 (marked up) claims 23-30

U.S. Patent

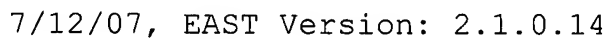
Nov. 25, 2003

Sheet 1 of 2

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## US 6,352,552 B1



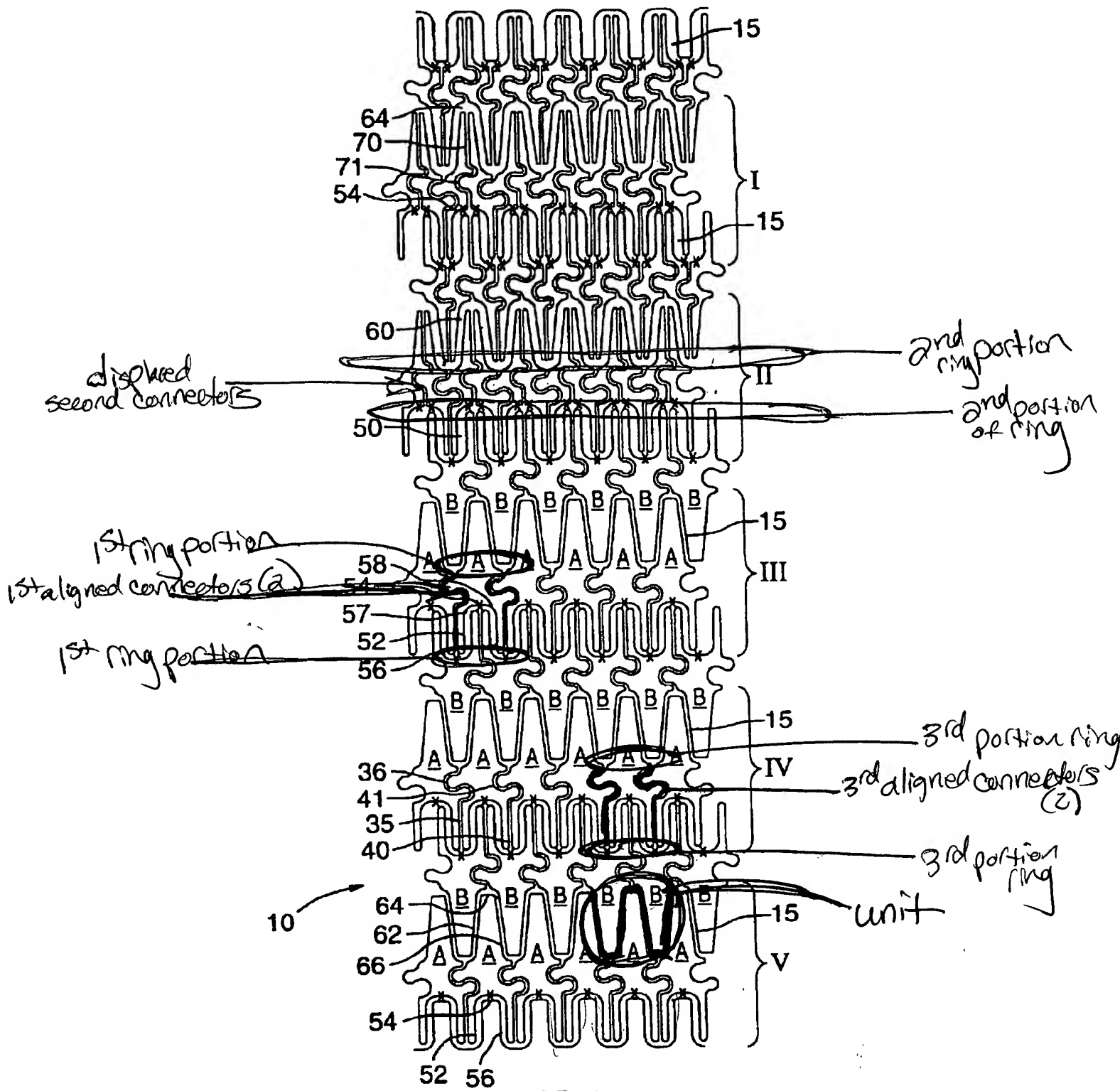


FIG.1

